

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROMAN ENCINAS,

Petitioner,

VS.

ATTORNEY GENERAL FOR
WASHINGTON,

Respondent.

NO. CV-12-3021-CI

ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING HABEAS ACTION

BEFORE THE COURT is Petitioner’s “Consolidated Specific Objections to the Report and Recommendation of Magistrate Imbrogno and Seeking Supervisory CEO/President Judge Sensoring [sic] and Setting Aside With Remand to Magistrate With Instructions to Proceed and ETC,” ECF No. 15. Petitioner, a federal prisoner at FCI Sandstone in Minnesota is proceeding *pro se*; Respondent has not been served.

Petitioner objects to the Magistrate Judge’s participation in these proceedings. He objects to the directive to amend his petition to use the Court’s form and to demonstrate his claims are not time-barred under 28 U.S.C. § 2244(d), asserting the state has disposed of his criminal record from 1995. Petitioner also objects to the “presumption that 28 USC 2244(d) preventing [sic] the hearing.” In addition, he objects to the Magistrate Judge’s reliance on state determinations as they allegedly violate the “Restatement Second on Judgments and Dismissals.” Petitioner objects to any finding that equitable tolling grounds were not presented. Finally, he objects to the Magistrate Judge’s use of

1 footnotes and asserts the AEDPA is irrelevant to these proceedings.

2 After review of the file and Mr. Encinas' submissions, the Court **ADOPTS** the
3 Report and Recommendation to Dismiss Petition as Time-Barred, ECF No. 14, in its
4 entirety. Accordingly, **IT IS ORDERED** this habeas action is **DISMISSED with**
5 **prejudiced** as time-barred under 28 U.S.C. § 2244(d).

6 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
7 Order, enter judgment, forward a copy to Petitioner at his last known address, and close
8 the file. The Court further certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal
9 from this decision could not be taken in good faith, and there is no basis upon which to
10 issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R.App. P. 22(b).

11 **DATED** this 30th day of July, 2012.

13 *s/Lonny R. Suko*

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15 LONNY R. SUKO
UNITED STATES DISTRICT JUDGE